

ORDER NO. 3616

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Priority Mail Express & Priority Mail Contract 29
(MC2016-120)
Negotiated Service Agreement

Docket No. CP2016-150

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL EXPRESS & PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued November 15, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express & Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to Priority Mail Express & Priority Mail Contract 29, with Portions Filed Under Seal, November 2, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3252 the Commission approved the Priority Mail Express & Priority Mail Contract 29 negotiated service agreement (Existing Agreement).² On November 2, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On November 3, 2016, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not affect the cost coverage of Priority Mail Express & Priority Mail Contract 29. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative states that he previously reviewed the Postal Service's initial request to add Priority Mail Express & Priority Mail Contract 29 to the competitive product list.⁵ He concluded that the Postal Service's request "satisfies the criteria of section 3642(b), concerning the classification of new competitive products, and complies with the requirements of section 3633(a) during the first year." PR Comments at 1-2 (quoting Initial PR Comments at 3). He concluded that "the terms of the contract provide for an adjustment to the contract...that may permit revenues to cover cost during years 2 and 3." *Id.* at 2 (quoting Initial PR Comments at 3). After

² See Docket Nos. MC2016-120 and CP2016-150, Order Adding Priority Mail Express & Priority Mail Contract 29 to the Competitive Product List, April 19, 2016 (Order No. 3252).

³ See Docket No. CP2016-11, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, November 3, 2016.

⁴ Public Representative Comments on Request of the United States Postal Service to Amend Priority Mail Express and Priority Mail Service Contract 29 Negotiated Service Agreement, November 9, 2016 (PR Comments).

⁵ See Docket Nos. MC2016-120 and CP2016-150, Public Representative Comments on Postal Service Request to Add Priority Mail Express & Priority Mail Contract 29 to the Competitive Product List, April 18, 2016 (Initial PR Comments).

reviewing the original comments and amended materials submitted by the Postal Service, he concludes that the amended contract continues to satisfy the relevant provisions of title 39. *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment replaces in its entirety section I.G., and adds a title, "Contract Package Pricing." Notice, Attachment A at 1.

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement. Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Postal Service states that the Amendment shall become effective two days after the date that the Commission completes its review. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the

initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁶

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Express & Priority Mail Contract 29 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

⁶ Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 29 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, April 8, 2016, Attachment B at 7. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.